

## Videos briefs for the Campaign to End Forced Evictions: 2014-15

"Forced evictions", also known as development based evictions and displacement, are defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. (UN Guidelines on Development Based Evictions and Displacement)

In the international context, the UN Basic principles and Guidelines on development based evictions and displacement provide the framework for understanding the rights of affected communities. While investigating stories of forced evictions in India and working towards stopping these, we will look at three main laws that are in effect across the country:

1. Right to fair compensation and transparency in land acquisition, rehabilitation and resettlement Act 2013 (LARR )
2. The Scheduled tribes and Other Traditional forest dwellers (Recognition of forest Rights) Act 2006 (FRA)<sup>1</sup>
3. The Panchayats (Extension of the Scheduled Areas) Act 1996 (PESA)<sup>2</sup>

In addition, we will have to keep in mind state laws that may be applicable and National policy of R&R and State policies.

As part of the **Campaign to End Forced evictions** , videos produced by VV will contribute to build a solid body of coherent evidence regarding the structured and pervasive nature of development based displacement and evictions in India. It will highlight and document the struggles of communities against these violations of their human rights and enable them to amplify their efforts through their own media and networking.

This campaign will consist of targeted roll out in CHG, JKD, OD, MP and MH. Stories on forced evictions pitched by CCs from other states will be mentored with these briefs as guides and included in the campaign.

All videos to be shot by community correspondents as per regular IU video standard production format.

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<sup>1</sup> Protects the rights of individuals and communities over forests and natural resources and recognizes the ownership of local communities over their resources

<sup>2</sup> PESA gives tribal communities complete control over decisions related to their land, forests and natural resources. It mandates tribal advisory councils to oversee tribal affairs and also gives extrajudicial, extra constitutional powers to the Governors of each State to intervene in matters where they see tribal autonomy being compromised.

## Planning and research

### How to identify a story on forced eviction related issues?

You know that land and housing rights are being violated when: (in accordance with International Human Rights Law)

- If there has been no genuine consultation with those affected
- If there has been no Free Prior Informed Consent<sup>3</sup> from the affected group.
- If affected persons are not given adequate and reasonable notice before eviction;
- Non-availability of information on the proposed eviction in reasonable and adequate time;
- If there is no presence of Government officials or their representatives during an eviction;
- If there isn't proper identification of persons carrying out the eviction;
- If evictions are carried out in bad weather or at night;
- If there are no legal remedies that can be easily accessed;
- If there is no easy access to legal aid to those in need to be able to seek judicial
- Affected persons do not have a degree of tenure security<sup>4</sup> which guarantees legal protection against forced evictions, harassment and other threats.
- Affected persons do not have safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal
- The alternative provided does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.
- If specific needs of marginalized / disadvantaged groups are not taken into account.
- If the alternate housing site is cut off from locally relevant/acceptable employment opportunities, health-care services, schools, childcare centres and other social facilities, or if located in polluted or dangerous areas.
- If the housing site/ structure does not take into account the expression of cultural identity/ needs.
- There is use of force, violence, intimidation, any other form of violation of human rights

### Here are the basic research questions that need to be answered while making a story on Forced evictions issues:

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<sup>3</sup> FPIC is a standard protected by international human rights law. It states that "all peoples have the right to self-determination" and "all peoples have the right to freely pursue their economic, social, and cultural development." FPIC is required in every case concerning Indigenous Peoples, their lands, or their resources. FPIC is the principle that a community has the right to give or withhold its consent to proposed projects that may affect the lands they customarily own, occupy or otherwise use. . FPIC is a core human right, set out in ILO Conventions on Indigenous and Tribal Peoples and the UN Declaration on the Rights of Indigenous Peoples, 2007 (UNDRIP), for those Indigenous communities whose lands are sought to be alienated for extractive and infrastructure projects. In the Indian legal framework, PESA and FRA specifically mention FPIC as mandatory.

<sup>4</sup> Regardless of whether people rent, own or are living without any legal rights on the land or home in which they live, security of tenure guarantees them legal protection against forced eviction, harassment and other threats.

- Why is the land being acquired/ what sort of project is it (can be anything- road, highway, small/ large dam, irrigation canal, wildlife sanctuary/ reserve, factory, mine, refineries, stockyard, educational institutes, ports etc: govt/ pvt)
- no. of villages at threat; name of at least one village and Block
- how much land per village is being acquired?
- no. of families at threat;
- which community/ies do these families belong to?
- do they have any pattas/ ownership records etc?
- does the area come under the 5th schedule/ PESA/ 6th schedule area/ not<sup>5</sup>?
- is it a revenue forest area/ reserve forest area/ sanctuary/ national park?
- Have they ever applied for pattas/ made claims under the LARR/ FRA?
- has there been any public consultation between the Govt and villagers on the issue?
- any notices issued?
- Was a gram sabha held on this specific matter? Who all were a part of the Gramsabha?
- Any Gram Sabha resolutions on the issue?;
- If so, what did the resolution say: descriptive
- Was there any joint planning with the community for compensation and rehabilitation/ resettlement?
- if so, does the community feel the package is a)acceptable, b) adequate,
- have they received any compensation : how many people received it? And how much did they receive? Was this acceptable to them?
- any other incidence of use of force or threat , bribery or manipulation?;

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<sup>5</sup> Currently, PESA areas are in schedule V areas in 9 states of India- Chattisgarh, Jharkhand, Odisha, Madhya Pradesh, Maharashtra, Rajasthan, Himacha Pradesh, Andhra Pradesh, Gujrat. Most of the North eastern states under Sixth Schedule Areas (where autonomous councils exist) are not covered by PESA, as these states have their own Autonomous councils for governance. Schedule VI is applicable in Mizoram, Assam, Meghalaya, Tripura

## Video briefs

### **1. Full Prior Informed Consent (FPIC):**

**What is Full Prior Informed Consent :** FPIC is a standard protected by international human rights law. It states that “all peoples have the right to self-determination” and “all peoples have the right to freely pursue their economic, social, and cultural development.” FPIC is required in every case concerning Indigenous Peoples, their lands, or their resources. FPIC is the principle that a community has the right to give or withhold its consent to proposed projects that may affect the lands they customarily own, occupy or otherwise use. . FPIC is a core human right, set out in ILO Conventions on Indigenous and Tribal Peoples and the UN Declaration on the Rights of Indigenous Peoples, 2007 (UNDRIP), for those Indigenous communities whose lands are sought to be alienated for extractive and infrastructure projects. In the Indian legal framework, PESA and FRA specifically mention FPIC as mandatory.

#### **Provisions for FPIC Under LARR:**

- For any land acquisition to take place, there must be consent of 80% of affected population. This does not mean only land owners but includes agricultural labor, landless, small businesses etc.
- If land is taken for development work by a public company or PSU, consent is not mandatory.
- Notice that a particular area may be acquired must be made in ways that are appropriate to the community: in local language newspaper; by making announcements in the local language in the villages; posting it in prominent public spots.
- Social Impact assessment must be undertaken by involving the Grama Sabha and all objections and claims must be met before land can be acquired. This will include Environment Impact Assessment where necessary. SIA report will be prepared by appropriate government in consultation with the Panchayat, Municipality and Municipal corporation. A Public Hearing is also mandatory in the affected areas to ascertain the views of the affected families and included in the SIA report. Objection can be filed within 30 days on notice with the DC in writing. DC must hear the objections personally.
- Final declaration has also to be published and shared widely.
- Opponents can demand the DC that their claims to be clarified in court, In writing.
- No displacement can happen before claims are settled.

#### **Video1: FPIC in relation to communities facing threat of forced eviction:**

##### **Interview questions**

- Do you know why your land is being acquired?
- Has any consultation happened? If yes, with who? What was the process followed?
- Was the gram sabha involved in social impact assessment and environmental impact assessment? Was a public hearing conducted? What was the process followed?

- Was anyone against the proposed land acquisition? Did they approach the DC with their claims? What happened to these claims?
- What does your land mean to you?

**Visuals:**

## **Video 2: FPIC In relation to communities who have been forcefully evicted:**

### **Interview questions**

- Were you told why your land was acquired?
- Were you consulted before your land was acquired? What was the process followed?
- Did you object to your land being taken?
- Was the Gram Sabha involved in social impact assessment and environmental impact assessment? Were you told what did these assessments say?
- Was a public hearing conducted? What was the process followed?
- Did you submit your objections/ claims with the DC? Was this settled? Did you get a written response?
- How were you informed of the decision taken to take your land?
- What was the process followed to evict you from your land?
- Who took the final decision to acquire your land?
- What this your land mean to you?

**Visuals:**

### **Provisions for FPIC Under PESA:**

(i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;

## **Video 3: FPIC in relation to communities facing threat of forced eviction in PESA areas:**

### **Interview questions:**

- Is this a PESA area?
- Do you know who wants to acquire your land and why?
- Was the issue of the proposed displacement discussed in the Gram sabha? Who all attended the GS?
- What was the decision taken by the gram sabha? (Note cc should try going to GS. If a resolution is passed, they should record it as a vox pop)
- What does your land mean to you?

**Visuals:**

## **Video 4: FPIC in relation to communities who have been forcefully evicted in PESA areas:**

### **Interview questions:**

- Is this a PESA area? Or do you know whether your village/ land comes under PESA?
- For what purpose was your land acquired?
- Was there any consultation with the gram sabha? What was the process followed?
- What was the resolution of the gram sabha regarding the proposed land acquisition?
- Who took the final decision to acquire your land?
- How did the actual eviction take place? (when, how – details)
- What did your land mean to you?

### **Visual:**

### **Provisions for FPIC under FRA**

- Sec 4 (2(e)) states no person can be displaced from forest land without FPIC of the concerned gram sabha. This holds true even in national parks, tiger reserves and sanctuaries.
- Gram sabha means even the sabha constituted at tola level and in unrecognized villages.
- If a community has to be moved for conservation purposes, then an expert committee has to investigate and prove that human habitation causes “irreversible” damage and there is no alternative for conservation to take place.

## **Video 5: FPIC in relation to forest dependent communities facing threat of forced evictions In Forest areas**

### **Interview questions**

- Is this forest land?
- Was the gram sabha/ palli sabha/ sabha in your hamlet consulted regarding the proposed acquisition of land? What happened there?
- Who all attended the GS? What was the decision taken by the gram sabha? (Note cc should try going to GS. If a resolution is passed, they should record it as a vox pop)
- Have you filed any claims under Forest Rights Act for individual/community claims?
- How long have you and your community lived here?
- What does your land mean to you?
- What is your relationship with these forests?

### **Visuals:**

## **Video 6: FPIC in relation to forest dependent communities who have been forcefully evicted**

### **Interview questions**

- Was your gram sabha/ palli sabhi/ sabha in your hamlet consulted before the eviction?
- Did you agree to the eviction and how?
- Do you know why your land was acquired?
- Were there any pending claims under FRA (for individual pattas or community rights) at the time of your eviction?
- Was there any kind of pressure for you to agree?
- Do you know if there was any report from any “expert committee” who have said that the eviction happened for conservation of the forest?
- What did your land mean to you?
- What is your relationship with these forests?

### **Visuals:**

Additional notes: To accompany this, take **voxpath testimonies** from as many of the villagers as possible on why they do not want to give up their land. Testimonies to accompany this video: different sections of people: women, men, landless laborers, dalits, large land owners and small land owners.: who are you- name , village, panchayat? Do you consent to give up your land for X project? Why/ why not?

## **2. Resettlement & Rehabilitation:**

### **Provisions for Resettlement and rehabilitation safeguards under LARR:**

- Land for land must necessarily be given as compensation when the communities affected belong to SC/ST (Land for land provision is limited to one acre for general category farmers and two and a half acre for SC and ST families in case of irrigation projects alone.)
- Compensation and R&R for all project affected persons, not just land owners.
- Amount to be paid for land is twice the average sale price of similar land in the area over the last three yrs or the value of the land as per the Indian Stamp paper Act, whichever is higher. This amount is quadrupled in rural areas. However, power to decide on provisions of calculation of compensation for land acquired remains with the Collector.
- Social Impact Assessment (SIA) will include the resettlement and rehabilitation plan and settlement of all claims before actual displacement. This must be made in consultation with affected persons and must be published locally and shared with them.

- The resettlement site must have all basic amenities and infrastructure and access to livelihood BEFORE any displacement.
- Compensation money should be deposited in a joint account in the name of the man and women of the household.

## **Video 7 : resettlement and rehabilitation under LARR For communities facing threat of eviction**

### **Interview questions**

- Which community do you belong to? (interview most marginalized communities. Landless laborers, Tenants and land owners)
- Have you been informed about the proposed R&R package?
- How much have you been offered the property? Do you know how this figure was arrived at? Do you know what the rate of this land is? (these Q should be asked together so that you get all answers in a block)
- Were you involved in deciding the resettlement and rehabilitation package? Have you been shown the land that you will receive as compensation?
- Question to sarpanch- do you have details of the Social impact assessment? Please explain the details .
- Do you know where the alternate site is? Have you seen the alternate site? what work has happened/what facilities are there? Does it have everything you need like a school, healthcare, electricity? What will you do for living there?
- What does your land mean to you?

### **Visuals**

## **Video 8: resettlement and rehabilitation under LARR For communities who have been evicted:**

### **Interview questions**

- Which community do you belong to? (Interview most marginalized communities. Landless laborers, fisherfolks, shepherds etc Tenants and land owners)
- When were you told about the R&R package?
- Have you received the compensation yet? In whose account was the money put?
- If not in joint account- ask how? If in joint account- ask husband and wife individually how they feel about this?
- Have you been given land for land?
- If no alternate site is given- where are you staying now? Do you know if any alternate site has been identified for you?
- Is the alternative land suitable for you to carry on with your livelihood?



- Do you have access to school, healthcare, electricity, PDS, pensions all other government schemes here?
- What did your land mean to you?

### **Visuals**

#### **Provisions for Resettlement and rehabilitation in PESA/ Vth schedule areas**

- No displacement in scheduled areas without written consent of the Gram Sabha.
- Land for land for all those displaced.
- Gram Sabha must be included in the planning process for R&R.
- No displacement till the resettlement site is fully equipped with basic amenities.
- All documents of identity are valid in the resettlement area till alternate documents are provided by the state.

#### **Video 9: Resettlement and rehabilitation For communities facing threat of eviction In PESA areas**

##### **Interview questions**

- Do you know if your area/village comes under PESA?
- Was the issue of the proposed displacement discussed in the Gram Sabha? Who all attended the GS? What was the decision taken by the Gram Sabha? (Note cc should try going to GS. If a resolution is passed, they should record it as a vox pop)
- Do you know where the alternate site is? Have you seen the alternate site? Do you know what work has happened/what facilities are there? Does it have everything you need like a school, healthcare, electricity? What will you do for a living there?
- What does your land mean to you?

### **Visuals:**

#### **Video 10 : Resettlement and rehabilitation For communities who have been forcefully evicted in PESA areas:**

- Was your area under pesa?
- Was a gramsabha held to discuss the land acquisition? What was the decision of the gramsabha?
- Was your gramsabha consulted to discuss the R & R plan? Who finalized this?
- Has suitable and adequate land been given to you with the ownership papers for this?
- If no alternate site is given- where are you staying now? Do you know if any alternate site has been identified for you?
- (If relocated to an alternate site)Is your old identity card valid here? If not have you been given new identity cards?
- What do you do for a living there? Is this place suitable for your livelihood?

- Do you have access to all facilities like health care, education, electricity here? Do have access to PDS, pensions all other government schemes here?
- What did your land mean to you?

**Visuals:**

**Provisions for Resettlement and Rehabilitation under Forest Rights Act:**

- According to Sec 4(2(a)) : no one can be displaced/ resettled without settling of individual and community claims to forest land/ resources first.
- Any rehabilitation package arrived at must provide credible alternate source of livelihood. Cash compensation is not sufficient.
- Written acceptance of the Gram sabha of the proposed package is mandatory. It has to be fully explained.
- No displacement until the resettlement site is fully equipped with basic amenities and land is handed over.
- The Forest Rights Act also provides for rights to in situ rehabilitation and alternative land in case of illegal eviction or forced displacement (sections 3(1)(m) and 4(8) respectively).

**Video 11: R&R under FRA For forest dependent communities facing threat of eviction**

**Interview questions:**

- Have you made any claims under FRA (for individual or community rights) which are still pending?
- What do you for a living now?
- What is the R&R package being offered to you? Who decided this ?
- Was the R&R package discussed in the Gram sabha? Who all attended the GS? What was the decision taken by the gram sabha? Did the GS give written consent to the proposed R&R package? (Note cc should try going to GS. If a resolution is passed, they should record it as a vox pop)
- Do you know where the proposed relocation site is? What will you do for a living there?
- Do you know what work has happened/what facilities are there? Does it have everything you need like a school, healthcare, electricity? What will you do for a living there?
- What does your land mean to you?

**Visuals:**

**Video 12: R&R under FRA For forest dependent communities who have been evicted**

**Interview questions**

- Were there any pending claims under FRA (for individual or community rights) at the time of your forced eviction?

- Were you provided any compensation or rehabilitation.
- If you have been displaced, was the land that was taken from you used for its purpose within five years of being acquired?
- Were you provided any land at the time of being displaced.
- (If the above three are established it is the responsibility of the Forest Department to prove that
- the procedure was legal)
- If no alternate site is given ask them : where are you staying now? Do you know if any alternate site has been identified for you?
- Was this site ready for occupation with all facilities when you came here?
- Do you have access to all facilities like health care, education, electricity here? Do have access to PDS, pensions all other government schemes here?
- What did your land mean to you?

### **Visuals:**

(Additional Notes: we can plan a **series of videos** in the villages near the main village that the CC mentions. if they too will be affected. So we will have one IU video from each village , each accompanied by as many testimonies from that particular village as possible, against a particular project)

## **3. Use or threat of force related to forced evictions:**

The testimonies should preferably include voices of women, children, men, communities who are may not be consulted even locally- at the gram sabha level.

### **Video 13: use or threat of force against those communities who are at risk of eviction/ have been evicted:**

#### **Interview questions**

- Tell us about what sorts of threats you have faced
- Tell us about the incident of use of force and how you all reacted
- What were the forms of threat/violence/intimidation used?
- How did you / do you feel about the methods being used by the state/ company?
- Did you feel you/ your community had / have been given the chance to assert your rights over your land?

- Why was force/ threats used against you / your community? (Was the use of force/threat to get your community to consent to the eviction (on paper) or just evict them without consent (even on paper)?)
- How did communities respond to this use of force- and continue to protest using constitutional means (highlight the quotes that talk about non violent forms of protest by communities that further establish that the state, corporations/ other actors are perpetrators of violence)
- Has the state protected your interests?
- What does your land mean to you?

## Visuals

## Creating Impact

Impacts have been defined slightly differently for Forced evictions related issues as these will require much more time and collaborative efforts to bring about change..

All calls to action should be in line with that of the local movement. Our plan would be that the CC begin with the video on the movement and screen this, this will help include them and communities and make the following videos that much stronger. Screenings will be an important part in community mobilization, awareness building and consolidation of further action that will be legally binding on the State like passing of resolutions.

If our CCs through their work (including video) on these issues **succeed in enabling the following milestone processes**, we will then consider that they (and the community) have achieved an impact.

- where the community has not been organized at all, CC succeeds in mobilizing local resistance and planning joint action with other peoples movements/groups
- Gram sabha resolution passed in support of the communities ownership of land/resources
- when PIL or any other action/investigation that leads to a stay on process of acquisition/ resource alienation
- collective action taken by community/ gram sabha: filing individual and community claims/ complaints/ petitions/ protest leading to acceptance of these claims by said authority
- community action leading to land titles being awarded in the joint names of men and women / only women

- community action leading to community titles for common resources being awarded in the village name

#### **Use force/ state repression**

- key human rights groups issue statements of solidarity on the matter in response to the video evidence
- when a PIL/writ or any other action/investigation that leads to redressal through legal action that been taken and/or victim/s compensated